

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 07 2009 ★

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B.F., an infant over the age of 14 years, by her
natural guardian and father, **DANIEL**
J. FROMMELL and **DANIEL J. FROMMELL**,

BROOKLYN OFFICE

**SUPPLEMENTAL
AFFIDAVIT**

Plaintiffs,

Docket 1:08-cv-01753
(VVP)

-against-

21ST CENTURY SHOWS, INC.,

Defendant.

-----X
STATE OF NEW YORK)
) ss:
COUNTY OF BRONX)

Wesley M. Serra, being duly sworn, deposes and says:

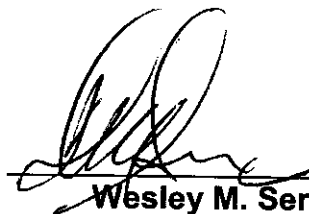
I am an attorney and a member of the firm of **FROM, WITTELS, FREUND, BERNE & SERRA, P.C.**, attorneys for the plaintiffs herein. I respectfully submit this supplemental Affidavit pursuant to the Order of this Court dated November 23, 2009.

I respectfully recommend that the Court approve the proposed settlement. While I view the liability as good, the only permanent injury to the infant plaintiff is the scar on the palm of her hand. She was not confined to bed and did not miss school as a result of her injuries. According to the treating plastic surgeon, Arie Fleischer, M.D. (whose report is included in the original submission) no further medical treatment is appropriate, and the scarring does not interfere with normal use of the plaintiff's hand.

After plaintiffs retained this office, we investigated the occurrence, by speaking with witnesses, determining the identity of those who operated the street fair where the accident occurred and retaining the services of a professional photographer to document the infant

plaintiff's scarring. We obtained the infant plaintiff's medical records, and retained Dr. Fleischer to write a narrative medical report. We drafted a summons and complaint. We commenced the action in the Supreme Court of the State of New York, County of Kings, on January 10, 2008, by filing the summons and complaint and obtaining an index number. We arranged for service upon the defendant by service upon the Corporation Division of the Department of State and through the office of the Sheriff of Bergen County. By Notice of Removal dated April 25, 2008, defendant removed the action to this Court. Following removal, we prepared the initial disclosures pursuant to FRCP 26(a)(1)(A) (July 10, 2008), responses to defendant's document demand (August 7, 2008), plaintiffs' own interrogatories and document demands (August 11, 2008), and responses to defendant's interrogatories (August 28, 2008). Defendant deposed plaintiff B.F. on November 6, 2008, plaintiff deposed the defendant (by its president, Alex Viecegli) on November 6, 2008, and the parties took the deposition of non-party witness Yocheved Parnasa on January 2, 2009. Defense counsel and we prepared the joint Pretrial Order on April 3, 2009. Following defendant's offer of judgment pursuant to Rule 68, FRCP, this office researched the issue of plaintiff's entitlement to costs, and negotiated the amount thereof with defense counsel. Finally, we prepared the compromise papers, and, should the Court approve the settlement, will prepare the necessary papers to effectuate it. We set forth our disbursements in our original submission.

WHEREFORE, your deponent respectfully requests that this application be granted
in its entirety.


Wesley M. Serra

Sworn to before me this
24th day of November, 2009.


Notary Public

MILTON WITTELS
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02W14317575
QUALIFIED IN NASSAU COUNTY
COMMISSION EXPIRES OCTOBER 31, 2009 2013